

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF MIDCOM COMMUNICATIONS,)
INC. AND TELENATIONAL COMMUNICATIONS)
LIMITED PARTNERSHIP)
)

) CASE NO. 96-174
)

ALLEGED FAILURE TO COMPLY WITH KRS)
278.020(4) AND KRS 278.020(5))

O R D E R

On July 26, 1995, MIDCOM Communications, Inc. ("MIDCOM") and Telenational Communications Limited Partnership ("Telenational") filed an application pursuant to KRS 278.020(4) and KRS 278.020(5) for approval of a proposed transfer of Telenational's Kentucky business to MIDCOM. The transfer application was docketed as Case No. 95-322.¹ On August 29, 1995, the Commission requested additional information necessary to its review of the application.

On September 15, 1995, the parties moved for an extension of time to respond to the August 29, 1995 Order and waived the statutorily mandated 60 day period in which the Commission is required to issue a decision pursuant to KRS 278.020(5). The Commission granted the extension of time.

¹ Case No. 95-322, Application of MIDCOM Communications, Inc. for Approval of a Transfer of Assets.

On February 14, 1996, the parties submitted a document the terms of which indicated that the transfer had been consummated without Commission approval. Accordingly, on April 29, 1996, the Commission opened this docket, ordering MIDCOM and Telenational to appear at a hearing scheduled for June 18, 1996, to show cause why they should not be penalized pursuant to KRS 278.990 for their apparent violations of KRS 278.020(4) and KRS 278.020(5).

By letter dated May 22, 1996, MIDCOM and Telenational indicated their desire to reach full and expeditious settlement with the Commission regarding any and all actions that could be brought by the Commission arising out of the transaction at issue. They offer to pay a penalty of \$100 in full settlement of this matter and do not dispute the facts which gave rise to this proceeding.

MIDCOM is an authorized carrier in Kentucky and has already been found by the Commission to possess the financial, technical, and managerial abilities to provide reasonable service. See Case No. 92-138.² Furthermore, the information filed by the parties in Case No. 95-322 indicates that, except for the legal infirmity caused by the failure to obtain prior Commission approval, this transfer was made "in accordance with law, for a proper purpose and [was] consistent with the public interest." KRS 278.020(5). Consequently, it does not appear that the transfer had any adverse impact on Kentucky customers. In short, the transfer would have been approved had the Commission

² Case No. 92-138, Application of Mid-Com Communications, Inc. for a Certificate of Public Convenience and Necessity to Operate as a Reseller of Telecommunications Services Within the State of Kentucky.


received the necessary information in a timely fashion. Given all applicable circumstances, it appears that the proposal of MIDCOM and Telenational is a reasonable and cost-effective manner of resolving this matter.

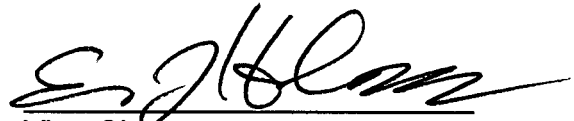
IT IS THEREFORE ORDERED that:

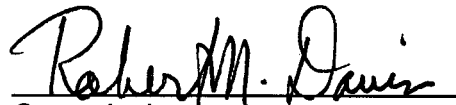
1. The hearing scheduled for June 18, 1996 is cancelled.
2. The terms offered by MIDCOM and Telenational, as described in this Order, are hereby accepted by the Commission in full settlement of any and all actions it could bring against MIDCOM and Telenational as a result of the transaction described in this Order.
3. Within 10 days of the date of this Order, MIDCOM and Telenational shall pay a penalty of \$100. This payment shall be in the form of a cashier's or certified check made payable to "Treasurer, Commonwealth of Kentucky" and shall be mailed or delivered to: Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602.
4. This case is hereby dismissed.

Done at Frankfort, Kentucky, this 7th day of June, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director